

MINUTES

**CITY OF IMPERIAL BEACH
CITY COUNCIL
PLANNING COMMISSION
PUBLIC FINANCING AUTHORITY
HOUSING AUTHORITY
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

SEPTEMBER 16, 2015

**Council Chambers
825 Imperial Beach Boulevard
Imperial Beach, CA 91932**

**CLOSED SESSION MEETING – 5:30 P.M.
REGULAR MEETING – 6:00 P.M.**

CLOSED SESSION

Mayor Dedina called the Closed Session Meeting to order at 5:30 p.m.

ROLL CALL BY CITY CLERK

Councilmembers Present: Patton, Bragg, Spriggs
Councilmembers Absent: None
Mayor Present: Dedina
Mayor Pro Tem Present: Bilbray
Staff Present: City Manager Hall, City Attorney Lyon, City Clerk Hald

CLOSED SESSION

MOTION BY BILBRAY, SECOND BY BRAGG, TO ADJOURN TO CLOSED SESSION UNDER:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code section 54956.8
Property: APN: 625-241-02-00
Agency Negotiator: City Manager, City Attorney
Negotiating Party: Sawhney Family LTD Partnership
Under Negotiation: Price and terms of payment

MOTION CARRIED UNANIMOUSLY.

Mayor Dedina adjourned the meeting to Closed Session at 5:31 p.m. and he reconvened the meeting to Open Session at 6:00 p.m.

Reporting out of Closed Session, City Attorney Lyon announced City Council discussed Closed Session Item No. 1, City Council gave direction and no reportable action was taken.

ADJOURN CLOSED SESSION

Mayor Dedina adjourned the Closed Session Meeting at 6:01 p.m.

REGULAR MEETING CALL TO ORDER

Mayor Dedina called the regular meeting to order at 6:01 p.m.

ROLL CALL BY CITY CLERK

Councilmembers present: Patton, Bragg, Spriggs
Councilmembers absent: None
Mayor Present: Dedina
Mayor Pro Tem Present: Bilbray
Staff Present: City Manager Hall, City Attorney Lyon, City Clerk Hald, Assistant City Manager Dush, Senior Planner Foltz, Public Works Director Levien, Administrative Services Director Bradley

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Kimberly Cuevas from Bayside School.

AGENDA CHANGES

MOTION BY PATTON, SECOND BY BRAGG, TO TAKE ITEM NO. 2.3 OFF THE CONSENT CALENDAR FOR DISCUSSION AT THE END OF THE AGENDA AND TO TAKE ITEM NO. 5.1 BEFORE PRESENTATIONS. MOTION CARRIED UNANIMOUSLY.

MAYOR/COUNCIL REIMBURSEMENT DISCLOSURE/COMMUNITY ANNOUNCEMENTS/REPORTS ON ASSIGNMENTS AND COMMITTEES

Councilmember Patton reported the Fleet Reserve Association is having a Casino Night fundraiser on September 26. He recognized the Fire, Lifeguard and Sheriff's Departments for their public safety efforts during the heat wave.

Councilmember Bragg announced October is Rideshare Month and she spoke about the iCommute competition for using alternative modes of transportation. She reported on increased service on several MTS bus routes, she distributed the Accessibility Committee's list of acceptable forms of identification for the senior and disability passes. She reported on her attendance at: the Alley Paving Ground Breaking Ceremony, the September 9th BID meeting, and the MTS Executive Committee Meeting. She announced the Air Resources Board will have new measures in place next year that will impact MTS' budget and SANDAG's draft Regional Plan is available for review. She also reported on her attendance at: the grand opening of Father Joe's Thrift Store, the last book sale at the Friends of the Library Bookstore, the MTS Blue Line Renewal Celebration at the E Street Trolley Station, and Kiwanis Club's Septemberfest. She announced the Chamber of Commerce is holding a Barbeque and Blues Festival on Saturday, September 19.

Councilmember Spriggs reported on his attendance at the San Diego Independent Rates Oversight Committee Meeting. He stated water rate increases have been carefully reviewed and are supported factually and reported on the efforts to equalize the purple pipe rates between the north and south counties. He announced his upcoming attendance at the League of California Cities Annual Conference and that he would provide the City Manager and City Attorney with the resolution packet for their review.

Mayor Dedina announced Symphony by the Sea will be held on October 10, the Military Appreciation Day Event will be held on November 8, and the Dempsey Holder Ocean Festival and Surf Contest will be held on November 7. He reported on a meeting he attended regarding development of a diverter pipe protocol with Mexico.

COMMUNICATIONS FROM CITY STAFF

City Manager Hall announced there will be a Code Compliance Workshop on September 23.

Public Works Director Levien introduced Mike Murphy, the City's new Fleet Supervisor.

Sheriff's Lieutenant Brown reported the City of Imperial Beach is ranked the second safest city in San Diego County and is the safest beach city in San Diego County.

PUBLIC COMMENT

Jim Mickelson announced the Barbeque and Blues Festival is scheduled for September 19.

Cheryl Quinones announced an action committee was formed to bring awareness of business practices at Wallys and Save A Lot grocery stores. She expressed concern about the selling of rotten and expired food and requested an opportunity to discuss bringing a quality food store to Imperial Beach (additional speaking time donated by Ernie Galindo and Debra Marie Davino).

REPORTS (5.1)

5.1 PROPOSED BSA EAGLE PROJECT PRESENTATION. (0920-40)

Public works Director Levien introduced the item.

Brad Mueller gave a PowerPoint presentation on the proposed improvements to aesthetically xeriscape the last of the small parking lot islands on 4th Street, adjacent to the Sports Park picnic and tot-lot area.

Councilmember Bragg noted a concern a resident had about the placement of boulders and the potential for damaging car doors.

MOTION BY PATTON, SECOND BY BILBRAY, TO AUTHORIZE THE CITY MANAGER TO SIGN THE EAGLE PROJECT PLAN FOR BRAD MUELLER TO CONTINUE THE PROJECT DEVELOPMENT AND CONSTRUCTION AS APPROVED BY CITY COUNCIL AND CITY STAFF. MOTION CARRIED UNANIMOUSLY.

PRESENTATIONS (1.1)

1.1 PRESENTATION ON PORT DISTRICT ACTIVITIES BY PORT COMMISSIONER MALCOLM. (0150-70)

Port Commissioner Malcolm gave a PowerPoint presentation on the following Port District's Activities: Long-term improvements at Pond 20, Imperial Beach Street Ends Improvement Project, South Seacoast Comfort Station, the Sun and Sea Festival, Lane Field North, San Diego Marriott Marquis and marina renovations, opportunities at Harbor Island, the Climate Action Plan, cargo and cruise activity, and the shipyards. He reviewed the Port's current budget and real estate activity. He also gave a progress report on the Port-wide Master Plan that will create a comprehensive multi-year, multi-phased vision for development over the next 50 years and announced public meetings, workshops, and study sessions will be held throughout the process.

CONSENT CALENDAR (2.1, 2.2, 2.4 & 2.5)

MOTION BY SPRIGGS, SECOND BY PATTON, TO APPROVE CONSENT CALENDAR ITEM NOS. 2.1, 2.2, 2.4 AND 2.5. MOTION CARRIED UNANIMOUSLY.

2.1 RATIFICATION OF WARRANT REGISTER. (0300-25)

Ratified the following registers: Accounts Payable Numbers 87277 through 87341 and EFT #'s 65-75 for a subtotal amount of 737,683.65, and Payroll Checks/Direct Deposits 46699 through 46716 for a subtotal amount of \$166,614.67 for a total amount of \$904,298.32.

2.2 RECEIVE TREASURER'S REPORT. (0300-90)

City Council received the monthly treasurer's report.

2.4 CONSIDERATION AND ADOPTION OF RESOLUTION NO. 2015-7628 APPROVING 2015 "GREENBOOK STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (GREENBOOK)" TO REPLACE 2012 GREENBOOK. (0720-95)

Adopted Resolution No. 2015-7628 updating the current 2012 GREENBOOK to the 2015 GREENBOOK. All other construction standards documents shall remain as approved by City Council Resolution No. 2014-7499 on June 18, 2014.

2.5 ADOPTION OF RESOLUTION NO. 2015-7629 APPROVING AND ADOPTING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY AND THE MEMBERS OF THE CITY'S MISCELLANEOUS CLASSIFIED SERVICE/SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 221. (0540-50)

Adopted Resolution No. 2015-7629 which will approve and adopt the MOU between the City and SEIU for two years, effective July 1, 2015 thru June, 30, 2017.

ORDINANCES – INTRODUCTION/FIRST READING (3)

None.

PUBLIC HEARINGS (4.1-4.3)

4.1 ACTION TO CONTINUE PUBLIC HEARING FOR 741 HICKORY COURT. (0470-20)

Mayor Dedina declared the public hearing open.

Assistant City Manager Dush reported the roof has been repaired, the vehicles have been removed and the item remaining is trash service. He requested continuance of the public hearing.

Jason Eliaser, the attorney representing the owner, concurred with continuance of the public hearing and reported on the progress with restoring trash service.

Councilmember Bragg expressed disappointment because trash service has not been reestablished and she stated that it was hard to believe that there is difficulty doing so.

In response to Councilmember Spriggs' comments about trash, Mr. Eliaser clarified there is no problem with trash at or on the property. The issue is not having trash service at the property.

MOTION BY BILBRAY, SECOND BY SPRIGGS, TO CONTINUE THE PUBLIC HEARING TO OCTOBER 7, 2015 AT 6:00 P.M. FOR FURTHER UPDATES ON COMPLIANCE AND FINAL RESOLUTION OF THE CASE. MOTION CARRIED UNANIMOUSLY.

4.2 IMPERIAL BEACH RESORT, LLC (OWNER/APPLICANT); CONSIDERATION OF THE DESIGN FOR A PERIMETER FENCE THAT WOULD REPLACE THE EXISTING CONSTRUCTION FENCE SURROUNDING THE PROPERTY LOCATED AT 1046 SEACOAST DRIVE (APN 625-380-27-00) IN THE C/MU-2 (SEACOAST COMMERCIAL & MIXED-USE) AND SEACOAST COMMERCIAL MIXED-USE/RESIDENTIAL OVERLAY ZONES. MF 1166; RESOLUTION 2015-7626. (0600-20)

Mayor Dedina declared the public hearing open.

Senior Planner Foltz gave a PowerPoint presentation on the item. He reported the applicant has initiated the process to obtain entitlements for a new hotel. While the entitlements are being processed, the construction fence that currently surrounds the site would be replaced with a more aesthetically pleasing fence. He reviewed the three options for the perimeter fencing which included vinyl coated chain link, wrought iron, or chain link with opaque fabric screening. He also spoke about an additional option of placing exterior art on the perimeter fence.

Jim Mickelson indicated support for the black vinyl coated chain link fence (he did not speak).

Councilmember Bragg spoke in support for the wrought iron fence option with inclusion of art panels at appropriate places.

Councilmember Patton spoke in support for the wrought iron fence option with art panels from local schools.

Councilmember Spriggs spoke in support for the wrought iron fence option but expressed concern about including art panels due to diminishing the look of the fence, blocking the view to the ocean, vandalism, and level of quality. He noted that in the absence of quality control of the art, he would not support it.

Councilmember Patton suggested a limited number of four (4) panels and that they can be taken down if it doesn't work out.

Councilmember Spriggs reiterated his desire for having regulations in place for selection of the art.

Mayor Dedina reported the City received a grant for the Cultural Arts Series. Ed Vea is currently working with Todd Stands, who teaches art at Southwestern College, on curating tidelands art and photos from local schools. He spoke about how other cities place art on construction fences and he was opposed to government regulating art. He did, however, agree that he and Councilmember Patton can work with Ed Vea and Todd Stands on the selection of art.

Senior Planner Foltz stated there is a condition within the resolution that controls the option for art: the art will be managed by the applicant with consultation by the City, it would not have a commercial message, it would not substantially impact the visibility through the site, and the City could require that the use of art be suspended at any time.

Without dissention from City Council, Mayor Dedina closed the public hearing.

MOTION BY BRAGG, SECOND BY PATTON, TO ADOPT RESOLUTION NO. 2015-7626 APPROVING A WROUGHT IRON FENCE WITH THE OPTION OF PLACING ART ON THE EXTERIOR OF THE FENCE AT 1046 SEACOAST DRIVE (APN 625-380-27-00) WITH CONDITIONS AS DESCRIBED BY THE CITY OF IMPERIAL BEACH. MOTION CARRIED UNANIMOUSLY.

4.3 MIKE ALLEN (APPLICANT/OWNER); ADMINISTRATIVE COASTAL PERMIT (ACP 140019), DESIGN REVIEW CASE (DRC 140020), SITE PLAN REVIEW (SPR 140021), AND CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES 15332 (IN FILL DEVELOPMENT) FOR THE CONSTRUCTION OF A 14-UNIT RESIDENTIAL APARTMENT BUILDING AT 640 FLORIDA STREET (APNs 626-170-09 & 626-170-23-00). MF 1147; RESOLUTION 2015-7627. (0600-20)

Mayor Dedina declared the public hearing open.

Senior Planner Foltz gave a PowerPoint presentation on the item.

Councilmember Bilbray left Council Chambers at 7:23 p.m. and returned at 7:25 p.m.

Randy Putland stated that the grade for the project should be as per the code.

Mayor Dedina announced an e-mail from Darren Johnson and Terri Johnson were submitted to City Council as Last Minute Agenda Information.

Daren Johnson stated that the project is not exempt from CEQA, is not consistent with the applicable zoning regulations, does not comply with the City's Municipal Code, violates the parking space size requirement and the open space requirement. He also stated that to ask City Council to interpret "at grade" to mean second floor is absurd, the plans are incomplete, and without adequate dimensions there is no evidence to support the claim that this project meets the municipal code requirements. He also stated approval of the project would result in significant effects on traffic and he was opposed to approval of the project.

Veronica Archer expressed concern about having the second floor counted as open space. She said having open space on the ground level would prevent massive structures from being built. She questioned if the required number of parking spaces would fit because of the column structures. She encouraged a close look at the plans to ensure they meet code. She questioned what is considered grade level since the parcel is on a slope. She encouraged City Council to enforce the current zoning laws and to consider the long term effects the project would have on the community.

Michael Carey spoke in support for revisiting the MU-2 Zone due to unintended consequences such as this project that is being proposed without commercial development on the bottom floor. He also spoke about the measurement of setbacks for commercial projects versus residential projects. He noted that the project looks like a box and takes up the whole lot area. There are

areas of interpretation for this project but with respect to grade the applicant is asking the City Council to violate the code and he spoke in support for having the project redesigned (additional speaking time donated by Ruth Cole).

Mike Allen, applicant, stated the parking is in compliance. He clarified that the zoning is CMU-1 which allows for full residential on the property. He spoke about the potential conflict that can occur when both commercial and residential share the same parking, the issues with the slope of the property, and the odd shape of the property. He stressed how the City's zoning leads to this type of development and that the high density housing meets zoning.

In response to Councilmember Patton's question as to whether or not the project meets the City's Code requirement for open spaces, Senior Planner Foltz stated it does not.

Councilmember Patton spoke in opposition to the project because it does not meet the open space requirement. He agreed with Mr. Carey's suggestion to relook at the MU Zone and Commercial Zoning.

In response to Councilmember Spriggs' question as to why there is a 60% open space at grade level requirement in the code, Senior Planner Foltz stated the code references such things as tot lots and other outside uses, a reduction of the building's footprint, and for aesthetic reasons.

Assistant City Manager Dush also stated that because this is a commercially zoned district, there isn't an open space requirement and that uses are driving what the use is. It is common to have an open space requirement for residential projects but the City's zoning code does not distinguish between product types nor is there a provision for proximity to other open spaces.

Councilmember Spriggs stated the project is clearly a residential development and the applicant is taking advantage of the commercial zoning in terms of setback and footprint requirements. In consideration of the residents, he spoke about the importance of looking at the open space requirements.

In response to Councilmember Spriggs' question about how he could comply with the open space requirement, Mr. Allen stated that in order to keep a decent look, he would have to cut two units. However, there would be no money to be made on this project until much later than planned. He spoke about the financial difficulty in developing this project yet meeting the code.

In response to Councilmember Spriggs' question about variances, City Attorney Lyon stated certain findings have to be made for variances and it may not be met in this case.

City Manager Hall added that variances cannot be self-imposed or economic. Variances are typically physical hardships on a property that aren't generally located in properties in the vicinity. That is why staff didn't pursue a variance.

City Attorney Lyon stated the City Council is being asked to interpret grade level at a different level or to deny it. With regard to concern about other applicants asking for similar allowances in the future, she said it would be handled on a case by case basis. Other lots could be different and it depends on how many other lots are in a similar situation and would ask for the same interpretation.

In response to Senior Planner Foltz's statement that the project meets 17% of the open space requirement, Councilmember Spriggs stated he cannot support the project at a percentage of 17% compared to the 60% requirement.

Councilmember Bragg stated the plans were lacking, she expressed concern about the dense project having impacts on an already dense neighborhood, and that she cannot support the project the way it is proposed. She encouraged the applicant to come back with a project that clearly meets the 60% open space requirement.

Mayor Dedina appreciated Mr. Allen's feedback, he stated that he would like to see a more thoughtful design and he concurred with the comments made regarding open space.

MOTION BY BRAGG, SECOND BY SPRIGGS, TO ADOPT RESOLUTION NO. 2015-7627 DISAPPROVING THE PROJECT BECAUSE IT DOES NOT MEET THE MINIMUM CRITERIA SET FORTH IN THE IMPERIAL BEACH ZONING ORDINANCE.

Without dissension from City Council Mayor Dedina closed the public hearing.

City Attorney Lyon explained a draft resolution disapproving the project has been submitted to the Mayor. Approval of this resolution disapproves the project based on the project not meeting the open space requirement in the zoning code. She suggested that the title of this draft resolution be read as the motion, replacing the original motion.

Councilmember Spriggs stated to the developer to come back with a revision that is within the ballpark of the 60% requirement.

MOTION BY BRAGG, SECOND BY SPRIGGS, TO ADOPT RESOLUTION NO. 2015-7627 DENYING AN ADMINISTRATIVE COASTAL PERMIT (ACP 140019), DESIGN REVIEW CASE (DRC 140020), SITE PLAN REVIEW (SPR 140021), AND CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES 15332 (IN FILL DEVELOPMENT) FOR THE CONSTRUCTION OF A 14-UNIT RESIDENTIAL APARTMENT BUILDING AT 640 FLORIDA STREET (APNS 626-170-09 & 626-170-23-00). MF 1147. MOTION CARRIED UNANIMOUSLY.

I.B. REDEVELOPMENT AGENCY SUCCESSOR AGENCY REPORTS (6)

None.

ITEMS PULLED FROM THE CONSENT CALENDAR

2.3 RESOLUTION NO. 2015-7625 TO REPEAL VARIOUS OUTDATED COUNCIL POLICIES. (0410-95)

In response to Councilmember Spriggs, City Manager Hall stated Council Policy 201 can be retained. With regard to Council Policy 413, it is duplicative of what is already in the Imperial Beach Municipal Code.

MOTION BY SPRIGGS, SECOND BY PATTON, TO ADOPT RESOLUTION NO. 2015-7625 TO REPEAL VARIOUS OUTDATED COUNCIL POLICIES, WITH THE EXCEPTION OF COUNCIL POLICY 201. MOTION CARRIED UNANIMOUSLY.

ADJOURN REGULAR MEETING

Mayor Dedina adjourned the regular meeting at 8:17 p.m.

/s/
Serge Dedina, Mayor

/s/
Jacqueline M. Hald, MMC
City Clerk